

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

MIGUEL A SEVILLA RIVERA

CASE: 10-09458 SEK

DEBTOR

CHAPTER 13

DEBTORS' MOTION TO EXCUSE APPEARANCE OF DEBTOR
AT THE 341 MEETING OF CREDITORS
AND REQUEST TO BE REPRESENTED BY GUARDIAN AT LITEM

TO THE HONORABLE COURT:

The Debtor, by his attorney, respectfully represents:

1. Debtor hereby requests this Court to excuse the appearance of Debtor Miguel A. Sevilla Rivera at the 341 meeting of creditors in this case and to allow that Debtor be represented in same by his daughter Diana Sevilla Villalobos.
2. Debtor is a 81 year old man suffering from multiple physical and mental problems including peripheral vascular disease, coronary artery disease, temporal arthritis, mature cataracts, prostatic carcinoma, osteoarthritis and several other conditions (see copy of Progress Note attached hereto).
3. These medical conditions cause him to have temporary memory lapses and inability to communicate accurately his financial condition.
4. He does not have a legal tutor assigned. However, his daughter Diana Sevilla Villalobos, an attorney, lives with him and takes care of all his financial responsibilities.
5. She is thoroughly familiar with Debtor's assets, debts, income

and expenses and is available to serve as guardian ad litem in this case.

6. Although Section 343 of Title 11 of the U.S. Code states that "the debtor shall appear and submit to examination under oath at the meeting of creditors under section 341(a) of the Title", the majority of courts faced with interpreting this section have held that despite the mandatory language of the section, "there are occasions when the attendance at a 341 meeting by a debtor may be waived..." In re Stewart, 14 B.R. 959, 960 (Bankr. N.D. Ohio 1981); In re O'Donnell, 43 B.R. 679 (Bankr. E.D. Penn. 1984); In re Sullivan, 30 B.R. 781 (Bankr. E.D. Penn. 1983); In re Edwards, 2 B.R. 103 (Bankr. S.D. Fla. 1979); and cited In re Judy Owens 221 B.R. 1998, Bankr. LEXIS 592.
7. "So long as a debtor is able to show 'good and sufficient reason' for his or her inability to attend the meeting, the debtor's presence may be excused. Id.
8. In re Sullivan, supra, debtor's brother who had the debtor's power of attorney, was allowed to appear in debtor's place. In re Edwards, supra, debtor was in the military service in the Philippines and his wife was available to testify.
9. The Debtor's advanced age, his chronic and debilitating physical and mental conditions should be "good and sufficient reason" to be excused from attending the 341 meeting of

creditors.

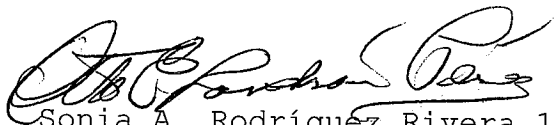
10. The meeting of creditors is scheduled to be held on November 12, 2010 at 2:00 PM.

11. The request is only as to the representation ad litem of the Debtor in the instant case and for that purpose only.

WHEREFORE, the Debtors request that this motion be approved, that the requirement of an appearance at a meeting of creditors be waived, and that his daughter Diana Sevilla Villalobos, Esq. be designated as his guardian ad litem in this case to represent the Debtor at all meetings to held in this case including appearing and answering questions by the Trustee at the 341 meeting of Creditors to be held on November 12, 2010.

CERTIFICATE OF SERVICE: I hereby certify that on October 29, 2010 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF System which will send notifications of such filing to the following: José R. Carrión, Chapter 13 Trustee.

October 29, 2010



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Progress Note

Jan 04, 2008

LOCAL TITLE: PRIMARY CARE FOLLOW UP NOTE
 DATE OF NOTE: JAN 04, 2008@11:18 ENTRY DATE: JAN 04, 2008@11:18:16
 AUTHOR: TORO-VELEZ, ANIBAL J EXP COSIGNER:
 URGENCY: STATUS: COMPLETED

PRIMARY CARE FOLLOW UP NOTE

DATE: JAN 04, 2008

VISIT: 01/04/08 09:30

Computerized Problem List is the source for the following:

1. Essential Hypertension
2. HEMORRHOIDECTOMY
3. Hypertrophy (Benign) of Prostate without Urinary obstruction
4. Varicose Veins
5. Discogenic Disease
6. Cervicalgia
7. small vessel disease
8. Peripheral Vascular Disease
9. Prostatic Carcinoma (ICD-9-CM 185.) s/p brachytherapy August 2005
10. Low Back Pain * (ICD-9-CM 724.2)
11. Colonic Polyps tubular adenoma x 1 colonoscopy done at private gastro Dr. Solis Mounier 5/4/05
12. Osteoarthritis * (ICD-9-CM 715.90)
13. Headaches * (ICD-9-CM 784.0)
14. Osteoporosis
15. Diverticulosis, Colonic
16. Internal hemorrhoids without mention of complication
17. Rhinitis * (ICD-9-CM 472.0)
18. Temporal Arteritis * (ICD-9-CM 446.5)
19. Chest Pain * (ICD-9-CM 786.50)
20. Cataract, mature (ICD-9-CM 366.17)
21. Coronary Artery Disease
22. Brvo/Branch Retinal Vein Occlusion

Skin Tests/Immunizations:

INFLUENZA JAN 27, 2004
 TETANUS DIPHTHERIA (TD-ADULT) JAN 27, 2004
 FLU, WHOLE JAN 27, 2004
 PNEUMOCOCCAL VACCINE JUN 9, 2005
 PNEUMOCOCCAL JUN 9, 2005
 HEPATITIS B SEP 12, 2006
 INFLUENZA DEC 18, 2006
 FLU, 3 YRS DEC 18, 2006
 INFLUENZA JAN 4, 2008

PATIENT NAME AND ADDRESS (Mechanical imprinting, if available)

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 581700295 DOB: 02/19/1929

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